

**FIRST ENGROSSMENT  
with House Amendments**

Fifty-ninth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2004**

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the state  
2 department of health; to create and enact a new subsection to section 23-01-05 of the North  
3 Dakota Century Code, relating to the state health officer's duty to establish an environmental  
4 review process for commercial buildings; to amend and reenact subsection 1 of section  
5 19-02.1-24, section 19-08-04, subsections 5 and 8 of section 23-09-01, and sections 23-09-16,  
6 23-09-24, 23-09.1-02.2, and 23-10-03 of the North Dakota Century Code, relating to licensure  
7 of food vending machines, beverage sales, food and lodging establishments, assisted living  
8 facilities, pushcarts, mobile food units, salvaged food distributors, bed and breakfasts, mobile  
9 home parks, trailer parks, and campgrounds; to repeal sections 19-08-05, 23-09-17,  
10 23-09.1-03, and 23-10-05 of the North Dakota Century Code, relating to license fee amounts  
11 for beverage sales, food and lodging establishments, mobile food units, pushcarts, bed and  
12 breakfasts, mobile home parks, trailer parks, and campgrounds; to provide for a report to the  
13 legislative council; to provide legislative intent; and to provide for a legislative council study.

14 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

15 **SECTION 1. BASE LEVEL FUNDING INFORMATION.** The amounts identified in this  
16 section represent the base level funding component appropriated to the state department of  
17 health in section 3 of this Act as follows:

18	Salaries and wages	\$29,972,929
19	Operating expenses	24,151,257
20	Capital assets	3,204,837
21	Grants	36,690,628
22	Tobacco prevention and control	7,783,097
23	WIC food payments	17,680,000
24	Community health advisory	<u>100,000</u>

1	Total all funds - Base level	\$119,582,748
2	Less estimated income - Base level	<u>106,481,656</u>
3	Total general fund - Base level	\$13,101,092

4           **SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION.** The  
5 amounts identified in this section represent the funding adjustments or enhancements to the  
6 base funding level for the state department of health which are included in the appropriation in  
7 section 3 of this Act as follows:

8	Salaries and wages	\$2,206,994
9	Operating expenses	1,395,366
10	Capital assets	(1,690,368)
11	Grants	5,136,538
12	Tobacco prevention and control	902,898
13	WIC food payments	(1,930,000)
14	Community health advisory	<u>(100,000)</u>
15	Total all funds - Adjustments/enhancements	\$5,921,428
16	Less estimated income - Adjustments/enhancements	<u>5,685,998</u>
17	Total general fund - Adjustments/enhancements	\$235,430

18           **SECTION 3. APPROPRIATION.** The funds provided in this section, or so much of the  
19 funds as may be necessary, are appropriated out of any moneys in the general fund in the state  
20 treasury, not otherwise appropriated, and from special funds derived from federal funds and  
21 other income, to the state department of health for the purpose of defraying the expenses of  
22 that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

23	Salaries and wages	\$32,179,923
24	Operating expenses	25,546,623
25	Capital assets	1,514,469
26	Grants	41,827,166
27	Tobacco prevention and control	8,685,995
28	WIC food payments	<u>15,750,000</u>
29	Total all funds	\$125,504,176
30	Less estimated income	<u>112,167,654</u>
31	Total general fund appropriation	\$13,336,522

1           **SECTION 4. ABANDONED MOTOR VEHICLE DISPOSAL FUND.** The estimated  
2 income line item included in section 3 of this Act includes \$250,000, or so much of the sum as  
3 may be necessary, to be made available to the state department of health from the abandoned  
4 motor vehicle disposal fund, under section 39-26-11, for the biennium beginning July 1, 2005,  
5 and ending June 30, 2007.

6           **SECTION 5. ENVIRONMENT AND RANGELAND PROTECTION FUND.** The  
7 estimated income line item included in section 3 of this Act includes \$252,808, or so much of  
8 the sum as may be necessary, to be made available to the state department of health from the  
9 environment and rangeland protection fund, for the biennium beginning July 1, 2005, and  
10 ending June 30, 2007. This amount includes \$50,000 for a grant to the North Dakota  
11 stockmen's association environmental services program.

12           **SECTION 6. DOMESTIC VIOLENCE PREVENTION FUND.** The estimated income  
13 line item included in section 3 of this Act includes \$340,000, or so much of the sum as may be  
14 necessary, to be made available to the state department of health from the domestic violence  
15 prevention fund, for the biennium beginning July 1, 2005, and ending June 30, 2007.

16           **SECTION 7. ENVIRONMENTAL HEALTH PRACTITIONER LICENSURE FEE**  
17 **ADMINISTRATIVE FUND.** The estimated income line item included in section 3 of this Act  
18 includes \$1,000, or so much of the sum as may be necessary, to be made available to the state  
19 department of health from the environmental health practitioner licensure fee administrative  
20 fund, for the biennium beginning July 1, 2005, and ending June 30, 2007.

21           **SECTION 8. WASTEWATER OPERATORS CERTIFICATION FUND.** The estimated  
22 income line item included in section 3 of this Act includes \$21,214, or so much of the sum as  
23 may be necessary, to be made available to the state department of health from the wastewater  
24 operators certification fund, for the biennium beginning July 1, 2005, and ending June 30, 2007.

25           **SECTION 9. COMMUNITY HEALTH TRUST FUND.** The estimated income line item  
26 included in section 3 of this Act includes \$6,610,000, or so much of the sum as may be  
27 necessary, to be made available to the state department of health from the community health  
28 trust fund, for the biennium beginning July 1, 2005, and ending June 30, 2007.

29           **SECTION 10. INTENT - INDIRECT COST RECOVERIES.** Notwithstanding section  
30 54-44.1-14, the state department of health may deposit indirect cost recoveries in its operating  
31 account.

1           **SECTION 11. AMENDMENT.** Subsection 1 of section 19-02.1-24 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3           1. ~~No~~ An establishment may not sell any type of prepackaged food from a food  
4 vending machine without first obtaining a license from the department. ~~A license~~  
5 ~~may be issued upon payment of a fee of fifteen dollars annually.~~ The license  
6 expires on June thirtieth of each year. The department may adopt rules  
7 establishing the amount and the procedures for the collection of license fees.  
8 License fees collected pursuant to this section must be deposited in the  
9 department's operating fund in the state treasury and any expenditure from the  
10 fund is subject to appropriation by the legislative assembly.

11           **SECTION 12. AMENDMENT.** Section 19-08-04 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13           **19-08-04. License required.** The department may, ~~in its discretion,~~ require  
14 manufacturers, importers, jobbers, or other retailers to furnish suitable samples to the  
15 department for inspection and chemical analysis. If any beverage does not meet all  
16 requirements of law, the department shall refuse to license it the beverage and shall prevent its  
17 sale of the beverage. The license fee must be paid annually during the month of December or  
18 ~~prior to~~ before placing the beverage on the market. The license expires December thirty-first  
19 next following its issuance. If the manufacturer or jobber secures a license for a product,  
20 subsequent sellers, including retailers and dispensers, need not again secure a license for the  
21 same product, and no dispenser may be required to secure a license for a product prepared for  
22 the dispenser's own use from a product already licensed. The department may adopt rules  
23 establishing the amount and the procedures for the collection of annual license fees. License  
24 fees collected pursuant to this section must be deposited in the department's operating fund in  
25 the state treasury and any expenditure from the fund is subject to appropriation by the  
26 legislative assembly.

27           **SECTION 13.** A new subsection to section 23-01-05 of the North Dakota Century Code  
28 is created and enacted as follows:

29           Establish a review process for commercial buildings for instances in which the  
30 department is requested to conduct an environmental review or environmental

- 1           assessment of a commercial building. The environmental review or environmental  
2           assessment must include:  
3           a. An environmental assessment;  
4           b. Identification of whether a health risk exists, what the health risk is, and how  
5           the health risk can be remediated or mitigated; and  
6           c. Once the health risk is identified, remediated, or mitigated a reevaluation of  
7           the risk which determines whether the risk has been addressed.

8           **SECTION 14. AMENDMENT.** Subsections 5 and 8 of section 23-09-01 of the North  
9 Dakota Century Code are amended and reenacted as follows:

- 10           5. "Food establishment" means any fixed restaurant, limited restaurant, coffee shop,  
11           cafeteria, short-order cafe, luncheonette, grill, tearoom, sandwich shop, soda  
12           fountain, tavern, bar, catering kitchen, delicatessen, bakery, grocery store, meat  
13           market, food processing plant, school, child care, or similar place in which food or  
14           drink is prepared for sale or service to the public on the premises or elsewhere  
15           with or without charge.  
16           8. "Lodging establishment" includes every building or structure, or any part thereof,  
17           which is kept, used, maintained, or held out to the public as a place where sleeping  
18           accommodations are furnished for pay to ~~four or more~~ transient guests. The term  
19           does not include a facility providing personal care services directly or through  
20           contract services as defined in section 23-09.3-01 or 50-32-01.

21           **SECTION 15. AMENDMENT.** Section 23-09-16 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23           **23-09-16. License - Application.** Before any food establishment, lodging  
24 establishment, pushcart, mobile food unit, or assisted living facility may be operated in this  
25 state, it must be licensed by the department. The department shall waive the license  
26 requirement for any food establishment, lodging establishment, or assisted living facility  
27 licensed by a city or district health unit if the local health unit's sanitation, safety, and inspection  
28 rules are approved by the department. Application for license must be made to the department  
29 during December of every year, or before the operating of the food establishment, lodging  
30 establishment, pushcart, mobile food unit, or assisted living facility, as the case may be. The  
31 application must be in writing on forms furnished by the department and must be accompanied

1 by the required fee. An additional amount of fifty percent of the license fee must be imposed  
2 upon renewal if the license was not renewed before February first following the expiration date.  
3 A reduced license fee in the amount of one-half the applicable license fee must be charged for  
4 a new food establishment, lodging establishment, pushcart, mobile food unit, or assisted living  
5 facility beginning operations after July first of each year and for changes in ownership and  
6 location of such existing establishments after July first of each year. The department may  
7 adopt rules establishing the amount and the procedures for the collection of annual license  
8 fees. The fees must be based on the cost of reviewing construction plans, conducting routine  
9 and complaint inspections, and necessary enforcement action. License fees collected pursuant  
10 to this section must be deposited in the department's operating fund in the state treasury and  
11 any expenditure from the fund is subject to appropriation by the legislative assembly.

12 **SECTION 16. AMENDMENT.** Section 23-09-24 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **23-09-24. Salvaged food - License required.** It is unlawful for a person to claim to be  
15 a salvaged food distributor or to engage in the activity of selling, distributing, or otherwise  
16 trafficking in distressed or salvaged food, or both, at wholesale, without a license issued under  
17 ~~section 23-09-17~~ this chapter authorizing that person to operate as a salvaged food distributor.  
18 A salvaged food distributor license may not be issued absent compliance with this section and  
19 any rules adopted to implement this section. The department may adopt rules establishing the  
20 amount and the procedures for the collection of annual license fees under this section. License  
21 fees collected under this section must be deposited in the department's operating fund in the  
22 state treasury and any expenditure from the fund is subject to appropriation by the legislative  
23 assembly.

24 **SECTION 17. AMENDMENT.** Section 23-09.1-02.2 of the North Dakota Century Code  
25 is amended and reenacted as follows:

26 **23-09.1-02.2. License required - Application - Issuance.** Before any bed and  
27 breakfast facility may operate in this state ~~it~~, the facility must be licensed by the department.  
28 Licenses expire on December thirty-first following the date of issuance unless canceled by  
29 failure to comply with this chapter or with any of the rules adopted ~~under~~ to implement this  
30 chapter. Renewal application for license must be made to the department during December of  
31 every year. A license must be issued upon compliance by the applicant with provisions of this

1 chapter and any rules adopted ~~under~~ to implement this chapter. The application must be in  
2 writing on forms furnished by the department and must be accompanied by the required fee.  
3 Licenses issued by the department are not transferable nor applicable to any premises other  
4 than those for which the license was issued. The department may adopt rules establishing the  
5 amount of and the procedures for the collection of annual license fees. License fees collected  
6 pursuant to this section must be deposited in the department's operating fund in the state  
7 treasury and any expenditure from the fund is subject to appropriation by the legislative  
8 assembly.

9 **SECTION 18. AMENDMENT.** Section 23-10-03 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **23-10-03. License required - Application.** ~~No~~ A person may not establish, maintain,  
12 or enlarge a mobile home park, trailer park, or campground in this state without first obtaining a  
13 license from the department. The application for the license must be made in writing to the  
14 department and must state the location and type of the mobile home park, trailer park, or  
15 campground, the proposed water supply, the proposed method of sewerage and garbage  
16 disposal, and such other information as may be required by the department. Application forms  
17 must be prepared by the department and distributed upon request. The department shall waive  
18 the license fee for any mobile home park, trailer park, or campground owned by the state, a  
19 municipality, or a nonprofit organization. The department shall waive all or a portion of the  
20 license fee for any mobile home park, trailer park, or campground that is subject to local  
21 sanitation, safety, and inspection requirements accepted by the department under section  
22 23-10-02.1. A prorated annual license fee may be charged for new mobile home parks, trailer  
23 parks, and campgrounds. The department may adopt rules establishing the amount and the  
24 procedures for the collection of annual license fees. License fees collected pursuant to this  
25 section must be deposited in the department's operating fund in the state treasury and any  
26 expenditure from the fund is subject to appropriation by the legislative assembly.

27 **SECTION 19. REPEAL.** Sections 19-08-05, 23-09-17, 23-09.1-03, and 23-10-05 of the  
28 North Dakota Century Code are repealed.

29 **SECTION 20. LEGISLATIVE COUNCIL STUDY - HEALTHY NORTH DAKOTA**  
30 **PROGRAM.** The legislative council shall consider studying, during the 2005-06 interim, the  
31 costs and benefits of adopting a comprehensive healthy North Dakota and workplace wellness

1 program in collaboration with the state department of health, health insurers and other  
2 third-party payers, workforce safety and insurance, interested nonprofit health-related agencies,  
3 and others who have an interest in establishing accident and disease prevention programs.  
4 The legislative council shall report its findings and recommendations, together with any  
5 legislation required to implement the recommendations, to the sixtieth legislative assembly.

6 **SECTION 21. LEGISLATIVE COUNCIL STUDY - TOBACCO SETTLEMENT**

7 **COLLECTIONS.** The legislative council shall consider studying, during the 2005-06 interim,  
8 whether to change guidelines for funding programs as a result of additional tobacco settlement  
9 collections that are anticipated to be received and deposited in the community health trust fund  
10 from 2008 through 2017. The legislative council shall report its findings and recommendations,  
11 together with any legislation required to implement the recommendations, to the sixtieth  
12 legislative assembly.

13 **SECTION 22. LEGISLATIVE INTENT - WORKSITE WELLNESS PILOT PROJECT.** It

14 is the intent of the fifty-ninth legislative assembly that the state department of health may use  
15 federal funding to match nonstate funding and contract with a nonstate entity for a worksite  
16 wellness pilot project during the 2005-07 biennium. The state department of health shall  
17 provide a report on the pilot project to the sixtieth legislative assembly.

18 **SECTION 23. LEGISLATIVE INTENT - FUNDING FOR ABSTINENCE PROGRAMS.**

19 It is the intent of the fifty-ninth legislative assembly that the state department of health use  
20 \$220,000 of federal maternal and child health funding for abstinence programs.

21 **SECTION 24. LEGISLATIVE INTENT - FEDERAL BIOTERRORISM FUNDING.** It is

22 the intent of the fifty-ninth legislative assembly that the full-time equivalent employee positions  
23 funded with federal bioterrorism grants be discontinued when the funding for the programs end.

24 **SECTION 25. BASIC CARE SURVEY PILOT PROJECT - LEGISLATIVE COUNCIL**

25 **REPORT.** The state department of health shall develop a pilot project to test an announced  
26 basic care survey process. The pilot project must begin with fifty percent of the state-licensed  
27 basic care providers surveyed receiving an announced survey and the remaining receiving an  
28 unannounced survey. The state department of health shall evaluate the survey pilot project  
29 and submit a report to the legislative council during the 2005-06 interim. The report must  
30 include a recommendation of whether the unannounced survey process should continue for all

Fifty-ninth  
Legislative Assembly

- 1 basic care facilities. The pilot project must include standard basic care surveys and all
- 2 complaint investigations must be unannounced.